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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,301	03/25/2004	Andrew Chang	FOUND-0003-CNT	9313
7590	03/17/2005		EXAMINER	
David B. Ritchie THELEN REID & PRIEST LLP P.O. Box 640640 San Jose, CA 95164-0640			HOM, SHICK C	
			ART UNIT	PAPER NUMBER
			2666	

DATE MAILED: 03/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/810,301	CHANG ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Shick C Hom	2666	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 25 March 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-14 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-14 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

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**DETAILED ACTION**

***Specification***

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.
  
2. The disclosure is objected to because of the following informalities: in page 2 line 7 of the amendment to the specification dated 3/25/04 after the words "filed on May 15, 2001," insert ---now U.S. Patent no. 6,735,218---. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. Claims 7 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 7 and 14 line 3 which recite "a wide striped cell" is not clear as to whether it is reciting ---the first wide striped cell--- or ---the another wide striped cell--- of claims 7, 14 line 2 or ---a third wide strip cell---.

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4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1-14 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 and 10-11 of U.S. Patent No. 6,735,218. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following:

For claims 1-14, the claims 1-4 and 10-11 of U.S. Patent No. 6,735,218 disclose a method for encoding wide striped cells that carry packets of data in blocks extending across multiple stripes, comprising: (a) encoding an initial block of a first wide striped cell with initial cell encoding information

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across multiple stripes; (b) distributing initial bytes of packet data into available space in the initial block of the first wide striped cell; and (c) encoding the first wide striped cell or another wide striped cell with end of packet information, the end of packet information varying depending upon a set of end of packet conditions including whether the end of packet occurs at the end of the initial block, within a subsequent block, at a block boundary, or at a cell boundary (see claim 1);

wherein said initial cell encoding information includes control information and state information, and said initial block of the first wide striped cell comprises five subblocks corresponding to five stripes, and wherein each subblock includes identical control information and identical state information (see claim 2);

adding reserve information to available bytes at the end of the initial block of the first wide striped cell (see claim 3);

distributing remaining bytes of packet data across one or more blocks in the first wide striped cell until one of the set of end of packet conditions is reached or a maximum cell size is reached (see claim 4);

wherein the step of encoding the first wide striped cell or another wide striped cell encodes the first wide striped cell

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or another wide striped cell with end of packet information that varies depending upon the degree to which data has filled the wide striped cell (see claim 10); and

a method for encoding wide striped cells that carry packets of data in blocks extending across multiple stripes, comprising:  
(a) encoding an initial block of a first wide striped cell with initial cell encoding information; and (b) distributing initial bytes of packet data into available space in the initial block of the first wide striped cell, wherein the said step of encoding the initial block, at the start of a packet, encodes an initial twenty byte block of a start wide striped cell having twenty bytes of data distributed across five stripes as follows:

Block	Strip 1	Stripe 2	Stripe 3	Stripe 4	Stripe 5
1	KO STATE DATA0 DATA1	KO STATE DATA2 DATA3	KO STATE DATA4 DATA5	KO STATE DATA6 DATA7	KO STATE RES RES

where, K0 is one byte representing a special control character indicative of a cell start, STATE is one byte of state information, DATA0-DATA7 represent eight bytes of payload data, and RES is one reserved byte (see claim 11).

Application's claims 1 and 8 merely broaden the scope of the U.S. Patent No. 6,735,218 claim 1 by eliminating the step c) encoding the first wide striped cell or another wide striped cell with end of packet information, the end of packet information varying depending upon a set of end of packet conditions including whether the end of packet occurs at the end of the initial block, within a subsequent block, at a block boundary, or at a cell boundary and eliminating the limitation that the stripes being multiple stripes. Likewise, the application's claims 2-4, 7, and 9-11, 14, merely broaden the scope of U.S. Patent No. 6,735,218 corresponding claims 2-4 and 10, respectively, by eliminating the step c) encoding the first wide striped cell or another wide striped cell with end of packet information, the end of packet information varying depending upon a set of end of packet conditions including whether the end of packet occurs at the end of the initial block, within a subsequent block, at a block boundary, or at a cell boundary and eliminating the limitation that the stripes being multiple stripes as recited in claim 1. The application's claim 5 merely broaden the scope of U.S. Patent No. 6,735,218 claim 1 by eliminating the limitation that the stripes being multiple stripes. The application's claims 6 and 13 merely

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broaden the scope of U.S. Patent No. 6,735,218 claim 11 by eliminating the limitation that the stripes being multiple stripes. It has been held that the omission of an element and its function is an obvious expedient if the remaining elements perform the same function as before. In re Karlson, 136 USPQ (CCPA). Also note Ex parte Rainu, 168 USPQ 375 (Bd. App. 1969); omission of a reference element whose function is not needed would be obvious to one skilled in the art.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1, 3, 8, and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Quirke et al. (6,654,370).

Regarding claims 1, 8:

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Quirke et al. disclose the method for encoding wide striped cells that carry packets of data across stripes (see col. 14 lines 18-24 and 48-54 which recite the step of striping bits from incoming data streams using 48-bit frame which clearly reads on the wide striped cells), comprising: (a) encoding an initial block of a first wide striped cell with initial cell encoding information (see col. 17 lines 35-54 which recite striping in the transceivers includes the step of encoding control events); and (b) distributing initial bytes of packet data into available space in the initial block of the first wide striped cell (see col. 1 lines 5-20 which recite striping a given packet utilizing the entire bus width).

Regarding claims 3, 10:

Quirke et al. disclose adding reserve information to available bytes at the end of the initial block of the first wide striped cell (see col. 11 lines 40-49 which recite inserting idles at the end of transfer for resynchronization).

### **Conclusion**

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Drottar et al. disclose packet format for a distributed system.

Chang et al. disclose a high-performance network switch.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shick C Hom whose telephone number is 571-272-3173. The examiner can normally be reached on Monday to Friday with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SH



SHICK C. HOM  
EXAMINER  
ART UNIT 2666